

### **REMARKS**

Claims 1, 3, 4 and 11-51 are pending in the above-identified application. Claim 37 has been amended to depend from independent claim 33 to correct a typographical error. Claim 38 has been amended to depend from claim 36 to correct a typographical error. Claim 41 has been amended to correct a typographical error by substituting the intended word "arcuate" for "accurate."

In the Office Action, a restriction/election requirement has been made under 35 U.S.C. §121, requiring Applicant to restrict the application to one of the following inventions:

Group I: Claims 1, 3, 4, 11-15, and 21-48, drawn to a nucleus device;

Group II: Claims 16-20 and 49-51, drawn to a method for replacing a spinal disc.

Applicants hereby elect the claims of Group I, viz. claims 1, 3, 4, 11-15, and 21-48, without traverse.

In addition, the Examiner identifies the following figures as disclosing distinct species: Figures 1, 3, 6, 7, 10, 14, 16, 17, 18, 20, 23, 26, 28, 31, 33 and 34. Applicants respectfully traverse the requirement for election of species, insofar as Figures 1 and 3, identified as separate species in actuality are both directed to the same, single embodiment of the invention. To this end, of the previously elected Group I claims, claims 1, 3, 11, 21-28 and 31-48 read on the embodiment shown in Figures 1 and 3. Further, it is believed at least claims 1, 31, 33, 34, 35, 37, 39, 40, and 41 are generic to all of the identified species.

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The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,  
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